

REMARKS

Claims 1-11, and 15-16 are pending in this application. Claim 1 has been amended in accordance with 35 U.S.C. § 112. Claims 12-14 have been withdrawn. Claim 17 has been added without the addition of any new matter. Claims 2-3, and 6-7 have been deemed allowable.

Claims 1, 4-5, 8, and 10-11 stand rejected under 35 U.S.C. § 103(a) as being unpatentable over Kingdon et al. ("Kingdon") (U.S. Patent No. 6,138,003). Claim 9 stands rejected under 35 U.S.C. § 103(a) as being unpatentable over Kingdon in view of O'Neill, Jr. ("O'Neill") (U.S. Patent No. 6,069,588). Applicant respectfully traverses these rejections, and requests allowance thereof in the pending application for the following reasons.

Response to Restriction Requirement

Applicant strongly contends that the restriction requirement is improper. In accordance with MPEP § 806.05(c), to support a restriction requirement, both two-way distinctiveness and reasons for insisting on restriction are necessary, i.e., separate classification, status, or field of search. The Action does not state any of these required reasons for restriction as there is no mention of separate classification, status, or field of search. Without these required reasons in accordance with MPEP § 806.05(c), the restriction requirement is improper and therefore should be

withdrawn.

To advance prosecution, Applicant elects Claims 1-11, and 15-16 with traverse. It appears that the alleged Invention II designation in the Action inadvertently lumps in Claims 15-16, as these claims are dependent on Claim 1 and therefore part of the alleged Invention I as described in the Action.

The Claims are Patentable Over the Cited References

Claims 1, 4-5, 8, 10-11, and 15-16 are not made obvious by Kingdon

Claims 1, 4-5, 8, 10-11, and 15-16 stand rejected under § 103(a) in view of Kingdon. Kingdon fails to disclose the features recited in these claims such as sending communications transmissions to the destination mobile wireless terminal from the mobile wireless terminal to share data between the mobile wireless terminal and the destination mobile wireless terminal when the mobile wireless terminal has received the position information of the destination mobile wireless terminal from the terminal location database.

In contrast, Kingdon discloses a wireless terminal position request authorization service which confirms the proper authorization for a requesting agency (see FIGs. 2-3; col. 2, lines 19-29; col. 6, lines 8-21). Kingdon only discloses using a requesting agency 280 (e.g., taxi service) to inquire to a mobile position center 270 to locate a mobile station 200, but makes no

mention of the further recited feature of sending communications transmissions to the destination mobile wireless terminal from the mobile wireless terminal to share data between the mobile wireless terminal and the destination mobile wireless terminal. Kingdon does disclose the requesting agency 280 making a request to receive the location of the mobile station 200, but does not further disclose a mobile station sending communications transmissions to and sharing data with a destination mobile station as recited.

Further, Kingdon does not expressly or implicitly disclose that the requesting agency 280 is an external wireless terminal making the recited mobile wireless terminal non-obvious. In strong contrast, Kingdon discloses that the requesting agency 280 may be a part of the destination mobile station 200 itself in the only relevant mobile wireless terminal embodiment (see col. 2, lines 28-30). Kingdon cannot disclose a mobile wireless terminal sending communications transmissions to and sharing data with a destination mobile wireless terminal as recited if the requesting agency 280 and the mobile station 200 of Kingdon are part of a single device.

Since Kingdon does not disclose a mobile wireless terminal sending communications transmissions to and sharing data with a destination mobile wireless terminal as recited and fails to make the recited mobile wireless terminal obvious, the claimed invention is patently distinct from and not made obvious by the cited reference.

Claim 9 is not made obvious by Kingdon and O'Neill

Claim 9 stands rejected under § 103(a) in view of Kingdon and O'Neill. Kingdon and O'Neill, either alone or in combination, fail to disclose the features recited in these claims such as sending communications transmissions to the destination mobile wireless terminal from the mobile wireless terminal to share data between the mobile wireless terminal and the destination mobile wireless terminal when the mobile wireless terminal has received the position information of the destination mobile wireless terminal from the terminal location database.

As contended above, Kingdon fails to recite these features as Kingdon only discloses requesting mobile location information and not the further recited feature of a mobile wireless terminal sending communications transmissions to and sharing data with a destination mobile wireless terminal. Further, O'Neill fails to recite these features as O'Neill discloses a method for coaxially coupling an antenna to a mobile station.

Since Kingdon and O'Neill, either or in combination, fail to disclose a mobile wireless terminal sending communicating transmissions to and sharing data with a destination mobile wireless terminal as recited, the claimed invention is patently distinct from and not made obvious by the cited reference.

Conclusion

In view of the amendments and remarks submitted above, it is respectfully submitted that all of the remaining claims are allowable and a Notice of Allowance is earnestly solicited.

Should there be any outstanding matters that need to be resolved in the present application, the Examiner is respectfully requested to contact Clint Gerdine (Reg. No. 41,035) at the telephone number of the undersigned below, to conduct an interview in an effort to expedite prosecution in connection with the present application.

If necessary, the Commissioner is hereby authorized in this, concurrent, and future replies, to charge payment or credit any overpayment to Deposit Account No. 02-2448 for any additional fees required under 37 C.F.R. §§ 1.16 or 1.17; particularly, extension of time fees.

Respectfully submitted,

BIRCH, STEWART, KOLASCH & BIRCH, LLP

By 

Clint A. Gerdine, #41,035

2565-0210P
MKM/CAG:tm

P.O. Box 747
Falls Church, VA 22040-0747
(703) 205-8000

Attachment: Letter Requesting Initialed Form PTO-1449